

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 30. DOCUMENTARY STAMPS**

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 30. Documentary Stamps [AMENDED]

SUMMARY:

The proposed amendments modify definitions, clarify the procedure for claiming an exemption from the payment of the documentary stamp tax, and update statutory citations and references to Tax Commission forms.

Other sections may be amended to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update or correct citations, update contact information, and ensure accurate internal cross-references, which do not change the interpretation or intent of the rules.

AUTHORITY:

68 O.S. §§ 203 and 3205; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to present their views in writing may do so by 4:30 p.m., February 7, 2023, at the following address: Oklahoma Tax Commission, Tax Policy and Research Division, Oklahoma City, Oklahoma 73194, Attention: Lisa Haws, or by email to lhaws@tax.ok.gov.

PUBLIC HEARING:

A public hearing is scheduled for 1:30 p.m., on Wednesday, February 8, 2023, at the Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date by calling Lakesha Mackie at (405) 521-3133. Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

In order to facilitate entry into the building, those wishing to appear should contact Lakesha Mackie at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. In order to gain access to the hearing, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the below listed contact person. The proposed rules may also be viewed on the agency's website at <http://www.tax.ok.gov>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available from the below listed contact person. The Rule Impact Statement may also be viewed on the agency's website at <http://www.tax.ok.gov>.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194. Telephone number: 405-521-3133; Email: lhaws@tax.ok.gov

TITLE 710. OKLAHOMA TAX COMMISSION

CHAPTER 30. DOCUMENTARY STAMPS

710:30-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Administrator" means the Director of the Business Tax Services Division of the Oklahoma Tax Commission. It is the intent of this Chapter that as Division Director, the actions and activities of the administrator shall be in compliance with directives established by the Commissioners of the Oklahoma Tax Commission.

"Attorney General" means the chief legal officer of the State of Oklahoma.

"Commission" means the Oklahoma Tax Commission.

"Consideration" means the actual pecuniary value exchanged or paid or to be exchanged or paid in the future, whether in money or otherwise, for the transfer or conveyance of an interest of realty, or minerals, including any assumed indebtedness. At the time of recording the instrument of transfer or conveyance, the consideration shall be stated, upon forms prescribed by the Oklahoma Tax Commission, and signed by the grantee, in accordance with the procedures prescribed by the Oklahoma Tax Commission.

"Deed" means any instrument or writing whereby realty or minerals are assigned, transferred, or otherwise conveyed to or vested in, the purchaser or, at his or her direction, any other person.

"Grantee" means the person receiving property.

"Grantor", "Seller" and "Transferor" means mean the person selling, giving or conveying the property.

"Mineral Deed" means the instrument which conveys a mineral interest in land.

"Mineral Interest" means the property interest created in oil or gas or other minerals by a mineral deed.

"Realty" includes those interests in real property, which endure for a period of time, the termination of which is not fixed or ascertained by a specific number of years; and, those interests enduring for a fixed period of years but which, either by reason of the length of the term or grant of a right to extend the term of renewal, consists of rights closely approximating interests in real property which endure for a period of time the termination of which is not fixed or ascertained by a specific number of years.

"Sold" means a transfer of interest for a valuable consideration, which may involve money or any other item of value.

710:30-1-3. Purchase and affixing of documentary stamps

(a) Only documentary stamps shall be used in payment of the tax imposed by Oklahoma Statutes. The requisite stamps shall be affixed to the deed, instrument, or other writing by which the realty is conveyed. If there is insufficient space on the face of the deed, instrument, or other writing to affix the

required documentary stamps, such stamps shall be affixed to a second or subsequent page of the document, or in the absence of a second or subsequent page, the stamps shall be affixed to the back of the deed, instrument, or other writing by which the realty is conveyed. It shall be the responsibility of the ~~County Clerk~~ county clerk to ensure that the page on which the stamps are affixed is recorded as part of the deed, instrument, or other writing conveying the realty. [See: 68 O.S. ~~1991~~, §3203(B)]

(b) Documentary stamps may be purchased, and requisite forms for the purchase of such stamps may be obtained, from the sources and in the manner provided for by statute. [See: 68 O.S. ~~1991~~, §3204]

(c) If a taxpayer claims exemption from the payment of the documentary stamp tax, and there is no notation on the face of the deed indicating the reason for claiming the exemption, the county clerk shall ~~make a brief notation on the face of the deed~~ require documentation indicating the reason for claiming the exemption.

(d) If a single deed conveys property located in more than one county, the stamps will be purchased from, and the deed filed in, the county having the largest portion of the property. Certified copies of the deed showing the stamps affixed will then be filed in the affected counties.

710:30-1-6. Examination of county records

Tax Commission auditors ~~will~~ shall periodically review deeds filed with each county clerk. The examinations shall consist of:

- (1) Extracting information concerning the amount of ~~Documentary Stamp Tax~~ documentary stamp tax paid;
- (2) Verifying the proper affixing of the ~~Documentary Stamp~~ documentary stamp;
- (3) Verifying the payment of the ~~Documentary Stamp Tax~~ documentary stamp tax;
- (4) Extracting information concerning nonpayment of the ~~Documentary Stamp Tax~~ documentary stamp tax;
- (5) Examination of the records of the county clerk concerning the administration of the Documentary Stamp Tax Act. [See: 68 O.S. §§ 3201 et seq.]

710:30-1-10. Duties and responsibilities of the county clerk

County clerks are responsible for selling ~~Documentary Stamps~~ documentary stamps to the taxpayers and have the duty of accounting for the stamps to the Oklahoma Tax Commission. For the purpose of collecting the stamp tax, the county clerks act as agents of the Oklahoma Tax Commission.

- (1) Documentary stamps are to be purchased only from the county clerk of the county in which the realty conveyed is located. If the property being conveyed by the deed is located in more than one county, the stamps will be purchased from the county in which the original deed is filed. Certified copies of such deed, showing stamps affixed, can then be filed with the other county

or counties where the property is located.

(2) In order to make a correct determination of tax due, the county clerks shall have the duty to request taxpayers to produce satisfactory documentation which correctly discloses the value of the property. The total value of the consideration paid can be determined from a real estate purchase contract, closing statement, bill of sale, completed, signed and dated OTC Form 961, or any other documentation showing the total price of the property sold.

(3) County clerks shall make sure that the ~~Documentary Stamps~~ documentary stamps are not sold over the counter. The stamps can only be sold when the tax is paid and the stamps affixed to the deed. Stamps are to be sold only when the deed is offered for recording.

(4) County clerks shall make sure that the proper amount of stamps are affixed. Metering machines may not be used to collect an odd tax amount or, in other words, to collect an amount of tax that is not a multiple of .75 75 cents. Stamps worth .75 75 cents must be affixed for each \$500.00 (or any fractional part thereof) of the consideration. When a metering machine is used, a single stamp can be printed for the total tax amount rather than attaching multiple stamps. However, whether a metering machine is used or not does not change the tax amount. Thus .75 75 cents is still required for each \$500.00 of consideration or fractional part thereof. This can be illustrated by the following example: The selling price of Blackacre is \$30,250.00. Based on this consideration paid, the deed will require 61 documentary stamps at 75 cents each, which computes to a tax amount of \$45.75. It is improper to use a metering machine to calculate the tax on 60.5 documentary stamps, or \$45.38.

(5) If the taxpayer claims exemption from the payment of the documentary stamp tax, and there is no notation on the deed indicating the reason for the claiming of the exemption, the county clerk shall ~~make a brief notation on the face of the deed indicating~~ require documentation detailing the reason for claiming the exemption.

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 30. DOCUMENTARY STAMPS**

RULE IMPACT STATEMENT

Pursuant to 75 O.S. §303(D), the Oklahoma Tax Commission provides the following rule impact statement with regard to proposed rule changes to Chapter 30 of Title 710 of the Oklahoma Administrative Code.

DESCRIPTION: The proposed amendments modify definitions, clarify the procedure for claiming an exemption from the payment of the documentary stamp tax, and update statutory citations and references to Tax Commission forms.

CLASSES AFFECTED: Grantors, grantees, sellers and transferors of real property, and county clerks.

CLASSES BENEFITED: Grantors, grantees, sellers and transferors of real property, and county clerks may benefit by the proposed amendments.

PROBABLE ECONOMIC IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS: There are no anticipated increase to costs associated with the proposed rule changes.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: The rulemaking action does not levy, implement, or increase an existing fee.

PROBABLE COSTS TO THE AGENCY: Costs to promulgate and enforce the proposed rules will be funded through normal agency budget. No measurable impact on State revenues is anticipated.

ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule changes at this time.

SMALL BUSINESS IMPACT: After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rules will have no adverse impact upon Small Business.

ALTERNATIVE METHODS AND COSTS OF COMPLIANCE: There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rules. No formalized compliance cost minimization measures have been pursued.

DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT: The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rules at this time.

DETERMINATION OF THE DETRIMENTAL EFFECT WILL THERE BE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT IF THE RULE CHANGE IS NOT IMPLEMENTED: The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rules at this time.

DATE PREPARED: December 13 2022